

As mentioned in the specification, there have been difficulties in formulating very low fat products so that they have flavor which is acceptable to consumers. The present invention concerns a way for imparting good flavor characteristics to very low fat foods which utilize edible surfactant mesophase technology to provide structure. In one form of the invention, the food is a water and oil emulsion containing a mesomorphic phase of edible surfactant, less than 5 wt. % edible triglyceride fat and at least 0.0001 wt. % lipophilic flavor. In another form, the emulsion comprises a phase of gelled biopolymer which includes triglyceride fat at a level of 5 wt. % or less and a lipophilic flavor.

Wesdorp et al., U.S. Patent No. 5,620,734 is directed to spreads and other products including mesomorphic phases. The spreads may include flavors; in several of the examples flavor is mentioned together with betacarotene. While Wesdorp et al. discloses bits and pieces relevant to Applicant's invention, they do not appear to disclose the invention as a whole. The Office points to no disclosure in Wesdorp et al. of a composition which is a water and oil emulsion containing a mesomorphic phase of edible surfactant, less than 5 wt. % edible triglyceride fat and at least 0.0001 wt. % lipophilic flavor.

Singer et al., U.S. Patent No. 5,202,146 discloses a method for delivering fat soluble flavor into non-fat and low fat food products wherein fat globules comprising elevated levels of fat soluble flavor compounds partitioned therein are introduced into the food. However, it is submitted that given the problem encountered in flavoring very low fat foods, it would not be reasonably predictable to one of ordinary skill that the Singer et al. method could be used to flavor the Wesdorp et al. type product. Therefore, it is submitted that a *prima facie* case of obviousness has not been made out.

In the other aspect of the present invention, the food comprises an emulsion having a first phase of gelled edible surfactants and a second phase of gelled biopolymer; the second phase comprising triglyceride fat at a level of 5 wt. % or less and a lipophillic flavor. The Office points to no suggestion in the art that very low fat foods can be advantageously flavored in this manner. While mesomorphic phase foods comprising a gelled biopolymer phase and a mesomorphic phase of edible surfactants are taught by Wesdorp et al., this aspect of the present invention is more than adding a small amount of two particular triglyceride and lipophillic flavor to a mesophase spread including a gelled biopolymer. It is not apparent why one of ordinary skill should, based on the prior art, choose in a very low fat spread to include a small amount of triglyceride and lipophillic flavor in the gelled aqueous phase.

Wesdorp's examples do not appear to teach or disclose the present invention. In Example II-23 of Wesdorp et al., it is not disclosed what type of flavor is present in the aqueous phase (the previous amendment incorrectly stated that the Example II-23 includes 20% triglycerides. Reference instead should have been made to Example II-13). In Example II-26 the flavor is present in the fat phase. Therefore, the Office points to no example in Wesdorp wherein the mesomorphic emulsion having a gelled aqueous phase with triglyceride and lipophillic flavor is disclosed.

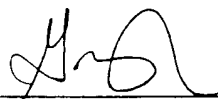
With respect to the rejection based on the combination of Singer et al. and Heertje et al., U.S. Patent No. 5,652,011, as in the rejection based on Wesdorp/Singer Applicants submit that one of ordinary skill would not reasonably expect in this art based on Singer to be able to flavor mesophase emulsions using the Singer technology. Moreover, although Heertje et al. do use the split stream, gelled aqueous phase technique, again the Office is unable to point to any disclosure in Heertje of the present invention

wherein the aqueous gelled phase includes a small amount of triglyceride and lipophilic flavor.

It would not appear that the Office provided Applicants with a copy of the Form 1449 which was submitted together with the Information Disclosure Statement mailed January 7, 1999. It would be appreciated if the Office could furnish Applicants with a copy of same so that it will be clear that the references have been considered of record.

In view of the foregoing, it is respectfully requested that the rejections be withdrawn and that the application be allowed.

Respectfully submitted,



Gerard J. McGowan, Jr.
Attorney for Applicant(s)
Reg. No. 29,412

GJM:pod
(201) 840-2297